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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION  
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COMMISSIONERS

MIKE GLEASON, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

DOCKET NO. RR-03639A-07-0519

IN THE MATTER OF THE APPLICATION OF  
THE UNION PACIFIC RAILROAD COMPANY  
TO ALTER FIVE CROSSINGS OF THE UNION  
PACIFIC RAILROAD IN PINAL COUNTY,  
ARIZONA AT TREKELL, KEELING, PEART,  
COX AND SUNLAND GIN ROADS.

PROCEDURAL ORDER

**BY THE COMMISSION:**

On September 7, 2007, the Union Pacific Railroad Company ("Railroad") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Railroad to alter five crossings of the Railroad in Pinal County ("County"), Arizona by adding a second set of mainline tracks. Three of these crossings are in the City of Casa Grande ("City") as follows: Trekell Road, AAR/DOT No. 741 367R; Cox Road, AAR/DOT No. 741 372M; and Sunland Gin Road, AAR/DOT 741 374B. The fourth and fifth crossings are in Pinal County at Keeling Road, AAR/DOT No. 741 368X and Peart Road, AAR/DOT No. 741 371F ("Application").

On October 24, 2007, the Commission's Safety Division's Railroad Safety Section ("Staff") and the Railroad participated in a teleconference to discuss aspects of the Application including public notice, other procedural matters and to determine a date for the hearing.

On November 8, 2007, by Procedural Order, the Commission ordered that a hearing be held on the application on February 21, 2008. The Procedural Order further ordered that notice be provided to various governmental entities by U.S. mail, established filing dates and ordered the Railroad to provide public notice of the hearing in the form and fashion set forth in the Procedural Order.

On December 13, 2007, Staff filed what was captioned "Staff Motion for Extension of Deadline UP Double Track Cases" ("Motion") in which Staff stated that due to complexities in the

1 application Staff was in the process of retaining a consultant who would require up to 30 days to  
2 perform an assessment of the application following his retention. Due to this problem, Staff  
3 requested an indefinite extension of the filing deadline for the Staff Report until it finalized its  
4 arrangements with the consultant. Staff further indicated that it would file a request for a Procedural  
5 Order at such time as Staff would be in a position to be prepared for the hearing.

6 On December 19, 2007, the Railroad filed a response to Staff's Motion opposing an extension  
7 of longer than 30 days.

8 On December 21, 2007, Staff filed its reply to the Railroad's response to Staff's Motion  
9 restating its request for and indefinite extension of time in this proceeding until Staff was able to  
10 proceed.

11 On January 2, 2008, by Procedural Order, Staff was ordered to file notice when it would be  
12 able to file its Staff Report and the hearing date of February 21, 2008, used for the purpose of taking  
13 public comment only since it appeared that the Railroad had previously provided public notice of its  
14 Application and hearing thereon.

15 On January 9, 2008, the Railroad filed certification that it had provided public notice pursuant  
16 to the Commission's Procedural Order.

17 On January 11, 2008, the City of Casa Grande ("Casa Grande") filed a request for  
18 intervention. No objections were received in response to Casa Grande's request.

19 On January 15, 2008, the Pinal County Board of Supervisors ("Board") filed a letter in  
20 support of the Application.

21 On January 23, 2008, Casa Grande was granted intervention in the proceeding.

22 On February 14, 2008, Staff filed a request for a procedural conference to be scheduled to  
23 discuss a date for the evidentiary hearing to be scheduled and related filing dates.

24 On February 21, 2008, a full public hearing was commenced before a duly authorized  
25 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Railroad and  
26 Staff appeared with counsel. Casa Grande did not appear. There was no one present to make public  
27 comment and the proceeding was recessed until the evidentiary hearing.

28 On March 4, 2008, by Procedural Order, a procedural conference was scheduled on March 12,

1 2008, to discuss filing dates and a possible date for an evidentiary hearing.

2 On March 12, 2008, at the procedural conference the Railroad, Casa Grande and Staff were  
3 present with counsel. It was agreed that Staff would file a Staff Report by June 13, 2008, after which  
4 an evidentiary hearing would be scheduled.

5 On June 2, 2008, the Railroad filed a copy of an executed agreement for construction and  
6 funding of grade separations in Pinal County.

7 On June 13, 2008, Staff filed its Staff Report.

8 On June 23, 2008, the Board filed another letter in support of the project.

9 On June 24, 2008, by Procedural Order, an evidentiary hearing was scheduled for July 31,  
10 2008.

11 On July 9, 2008, Staff filed a Motion to Continue the hearing scheduled on July 31, 2008, due  
12 to the unavailability of a witness. Staff requested the hearing be scheduled after August 4, 2008, but  
13 not August 11, or 12, 2008, due to the unavailability of another party's witness.


14 Accordingly, the hearing should be continued.

15 IT IS THEREFORE ORDERED that the **evidentiary hearing shall be continued from July**  
16 **31, 2008, to August 21, 2008, at 9:30 a.m.**, at the Commission's offices, 1200 West Washington  
17 Street, Room 100, Phoenix, Arizona.

18 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
19 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
20 *pro hac vice*.

21 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,  
22 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by  
23 ruling at hearing.

24 DATED this 11<sup>TH</sup> day of July, 2008.

25  
26  
27   
28 MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

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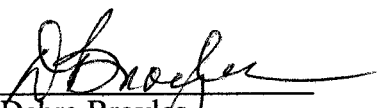
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